

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARILYN J. DeGIULIO,)	
)	
Claimant,)	IC 00-036636
)	IC 01-007072
v.)	
)	ORDER
DAWN ENTERPRISES, INC.,)	
)	
Employer,)	Filed
)	December 9, 2004
and)	
)	
STATE INSURANCE FUND,)	
)	
Surety,)	
)	
Defendants.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Robert D. Barclay submitted the record in the above-entitled matter, together with his findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with the recommendation. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED That:

1. Claimant aggravated her pre-existing cervical spondylosis and stenosis in the

November 15, 2000, and February 22, 2001, industrial accidents.

2. Claimant is entitled to the medical care required by Dr. Blair to treat her cervical condition including the March 11, 2003, fusion, and the post-surgical physical therapy.

3. Claimant's average weekly wage is \$153.00 .

4. Claimant is entitled to temporary total disability (TTD) benefits from March 11, 2003, until June 3, 2003.

5. Claimant is entitled to a permanent partial impairment (PPI) rating of 28% of the whole person.

6. Claimant is not entitled to permanent partial disability in excess of her permanent impairment.

7. Claimant is not totally and permanently disabled under the "odd-lot" doctrine.

8. Apportionment under Idaho Code § 72-406 is not appropriate.

9. The issue of whether Claimant is entitled to attorney fees under Idaho Code § 72-804 has been withdrawn.

10. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to the matters adjudicated.

DATED This 9th day of December, 2004.

INDUSTRIAL COMMISSION

/s/
R. D. Maynard, Chairman

/s/

Thomas E. Limbaugh, Commissioner

/s/
James F. Kile, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2004, a true and correct copy of the foregoing **Order** was served by regular United States Mail upon each of the following:

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kk

/s/